

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PAUL MITCHELL,

Plaintiff,

-v.-

9:06-CV-1350
(GLS)(RFT)

GLENN S. GOORD, Commissioner, NYS DOCS; DONALD SELSKY, Director, Inmate Discipline; JOHN BURGE, Superintendent; SGT. COX; SGT. ZENTER; C.O. MARINELLI; JAMES ALBERRY, C.O.; C.O. CROZIER; COOL, C.O.; DAY, C.O.; QUINN, R.N.; WOLCZYK, Hearing Officer; JOHN DOE 1; JOHN DOE 2; JOHN DOE 3; JOHN DOE 4; JOHN DOE 5,

Defendants.

APPEARANCES:

PAUL MITCHELL
Plaintiff, *pro se*
42-60 Main Street
Suite 5-E
Queens, New York 11355

RANDOLPH F. TREECE, MAGISTRATE JUDGE

ORDER

Presently before the Court is a civil rights Complaint and Application to Proceed *in Forma Pauperis* brought by *pro se* Plaintiff Paul Mitchell. Dkt. Nos. 1, Compl. & 2.

In his Complaint, Plaintiff alleges that he was assaulted and his due process rights were violated. For a complete statement of Plaintiff's claims, reference is made to the Complaint.

Turning to Plaintiff's *in Forma Pauperis* Application, after reviewing the entire file herein, the Court finds that Plaintiff may properly proceed with this action *in forma pauperis*.

Plaintiff has listed five John Doe Defendants in the caption of his Complaint. The United States Marshals Service can only effect service of a summons and complaint on identifiable individuals. Plaintiff is therefore directed to take reasonable steps to ascertain the identity of each of these Defendants. Upon learning the identity of any of these individuals, Plaintiff must amend

his Complaint to properly name him or her as a Defendant herein. If Plaintiff fails to ascertain the identity of any of the John Does so as to permit the timely service of process, this action may be dismissed as against such Defendants.

WHEREFORE, it is hereby

ORDERED, that Plaintiff's *in Forma Pauperis* Application (Dkt. No. 2) is **granted**. The Clerk shall issue Summonses and forward them, along with copies of the Complaint, to the United States Marshal for service upon the Defendants, together with a copy of this Order. The Clerk shall forward a copy of the Summonses and Complaint by mail to the Office of the New York State Attorney General, together with a copy of this Order; and it is further

ORDERED, that a formal response to Plaintiff's Complaint be filed by the Defendants or their counsel as provided for in the Federal Rules of Civil Procedure subsequent to service of process on the Defendants; and it is further

ORDERED, that Plaintiff take reasonable steps to ascertain the identity of the John Doe Defendants listed in the Complaint; and it is further

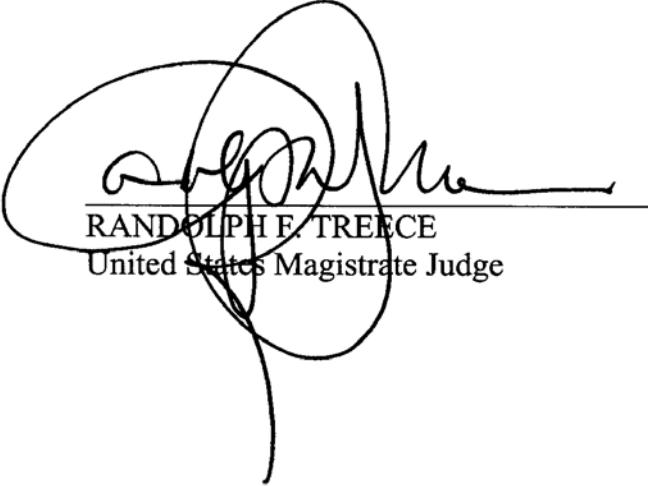
ORDERED, that all pleadings, motions and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the court or the Clerk must be accompanied by a certificate showing that a true and correct copy of it was mailed to all opposing parties or their counsel. Any document received by the Clerk or the court which does not include a proper certificate of service will be returned, without processing.** Plaintiff must comply with requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in

filings motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in his address; failure to do so will result in the dismissal of this action.** All motions will be decided on submitted papers without oral argument unless otherwise ordered by the court; and it is further

ORDERED, that the Clerk serve a copy of this Order on Plaintiff.

SO ORDERED.

Dated: December 22, 2006
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge